

ending dates of such owners' or controllers' affiliation with the applicant, permittee, or person cited in a violation notice; and the nature and details of any transaction creating or severing an ownership or control link; or specific facts concerning the status of the violation;

(B) If certified, copies of corporate minutes, stock ledgers, contracts, purchase and sale agreements, leases, correspondence, or other relevant company records;

(C) If certified, copies of documents filed with or issued by any State, Municipal, or Federal governmental agency.

(D) An opinion of counsel, when supported by (1) Evidentiary materials; (2) a statement by counsel that he or she is qualified to render the opinion; and (3) a statement that counsel has personally and diligently investigated the facts of the matter or, where counsel has not so investigated the facts, a statement that such opinion is based upon information which has been supplied to counsel and which is assumed to be true.

(ii) Before any administrative or judicial tribunal reviewing the decision of the responsible agency, any evidence admissible under the rules of such tribunal.

(d) Following any determination by a State regulatory authority or other State agency, or any decision by an administrative or judicial tribunal reviewing such determination, the State regulatory authority shall review the information in AVS to determine if it is consistent with the determination or decision. If it is not, the State regulatory authority shall promptly inform OSM and request that the AVS information be revised to reflect the determination or decision.

[59 FR 54355, Oct. 28, 1994; 59 FR 61656, Dec. 1, 1994]

PART 774—REVISION; RENEWAL; AND TRANSFER, ASSIGNMENT, OR SALE OF PERMIT RIGHTS

Sec.

774.1 Scope and purpose.

774.10 Information collection.

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774.13 Permit revisions.

774.15 Permit renewals.

774.17 Transfer, assignment, or sale of permit rights.

AUTHORITY: 30 U.S.C. 1201 *et seq.*, as amended; and Pub. L. 100-34.

SOURCE: 48 FR 44395, Sept. 28, 1983, unless otherwise noted.

§ 774.1 Scope and purpose.

This part provides requirements for revision; renewal; and transfer, assignment, or sale of permit rights.

§ 774.10 Information collection.

The collections of information contained in §§ 774.11, 774.13, 774.15 and 774.17 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1029-0088. The information will be used to determine if the applicant meets the requirement for revision, renewal, transfer, sale, or assignment of permit rights. Response is mandatory in accordance with sections 102, 511, 506, and 507 of the Act.

[54 FR 13823, Apr. 5, 1989]

§ 774.11 Regulatory authority review of permits.

(a) The regulatory authority shall review each permit issued and outstanding under an approved regulatory program during the term of the permit. This review shall occur not later than the middle of each permit term and as follows:

(1) Permits with a term longer than 5 years shall be reviewed no less frequently than the permit midterm or every 5 years, whichever is more frequent.

(2) Permits with variances granted in accordance with § 785.14 of this chapter (mountaintop removal) and § 785.18 of this chapter (variance for delay in contemporaneous reclamation requirement in combined surface and underground mining operations) of this chapter shall be reviewed no later than 3 years from the date of issuance of the permit unless, for variances issued in accordance with § 785.14 of this chapter, the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the permit.

(3) Permits containing experimental practices issued in accordance with § 785.13 of this chapter and permits with a variance from approximate original contour requirements in accordance with § 785.16 shall be reviewed as set forth in the permit or at least every 2½ years from the date of issuance as required by the regulatory authority, in accordance with §§ 785.13(g) and 785.16(c) of this chapter, respectively.

(b) After the review required by paragraph (a) of this section, or at any time, the regulatory authority may, by order, require reasonable revision of a permit in accordance with § 774.13 to ensure compliance with the Act and the regulatory program.

(c) Any order of the regulatory authority requiring revision of a permit shall be based upon written findings and shall be subject to the provisions for administrative and judicial review in part 775 of this chapter. Copies of the order shall be sent to the permittee.

(d) Permits may be suspended or revoked in accordance with subchapter L of this chapter.

§ 774.13 Permit revisions.

(a) *General.* During the term of a permit, the permittee may submit an application to the regulatory authority for a revision of the permit.

(b) *Application requirements and procedures.* the regulatory authority shall establish—

(1) A time period within which the regulatory authority will approve or disapprove an application for a permit revision; and

(2) Guidelines establishing the scale or extent of revisions for which all the permit application information requirements and procedures of this subchapter, including notice, public participation, and notice of decision requirements of §§ 773.13, 773.19(b) (1) and (3), and 778.21, shall apply. Such requirements and procedures shall apply at a minimum to all significant permit revisions.

(c) *Criteria for approval.* No application for a permit revision shall be approved unless the application demonstrates and the regulatory authority finds that reclamation as required by the Act and the regulatory program

can be accomplished, applicable requirements under § 773.15(c) which are pertinent to the revision are met, and the application for a revision complies with all requirements of the Act and the regulatory program.

(d) *Request to change permit boundary.* Any extensions to the area covered by the permit, except incidental boundary revisions, shall be made by application for a new permit.

§ 774.15 Permit renewals.

(a) *General.* A valid permit, issued pursuant to an approved regulatory program, shall carry with it the right of successive renewal, within the approved boundaries of the existing permit, upon expiration of the term of the permit.

(b) *Application requirements and procedures.* (1) An application for renewal of a permit shall be filed with the regulatory authority at least 120 days before expiration of the existing permit term.

(2) An application for renewal of a permit shall be in the form required by the regulatory authority and shall include at a minimum—

(i) The name and address of the permittee, the term of the renewal requested, and the permit number or other identifier;

(ii) Evidence that a liability insurance policy or adequate self-insurance under § 800.60 of this chapter will be provided by the applicant for the proposed period of renewal;

(iii) Evidence that the performance bond in effect for the operation will continue in full force and effect for any renewal requested, as well as any additional bond required by the regulatory authorities pursuant to subchapter J of this chapter;

(iv) A copy of the proposed newspaper notice and proof of publication of same, as required by § 778.21 of this chapter; and

(v) Additional revised or updated information required by the regulatory authority.

(3) Applications for renewal shall be subject to the requirements of public notification and public participation contained in §§ 773.13 and 773.19(b) of this chapter.